Task Force Meeting: 3/13/06
Agenda Item:

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: COYOTE VALLEY SPECIFIC PLAN TASK FORCE

FROM: Leslye Krutko
Joseph Horwedel

SUBJECT: **DRAFT CVSP AFFORDABLE HOUSING STRATEGY**

DATE: March 7, 2006

Approved — Date

Executive Summary

This memorandum presents several of the important policy issues that were discussed and staff recommendations for Task Force consideration for the CVSP Affordable Housing Strategy. Generally, based on the vision and outcomes for the CVSP, direction from the Task Force, and discussion and input from the stakeholder groups, staff recommends:

- Each market rate development should provide the equivalent of 20% of its units as affordable:
  - For-sale developments should be required to make units affordable to moderate income households.
  - Rental developments should be required to make the equivalent of 8% of units affordable to very low-income households and 12% affordable to low-income households.

- The CVSP Affordable Housing Strategy should be flexible with a range of alternative methods for developers to meet the 20% affordable housing requirement, including direct production, payment of in-lieu fees, and land dedication under specific circumstances.

- The CVSP Affordable Housing Strategy should be consistent with the City's existing Inclusionary Housing Policy, requiring developers to fund the gap associated with the development of all units targeted to moderate income, low income, and very-low income households:
  - Allow the use of 20% Low and Moderate Income Housing funds to be provided only for units in excess of those required under this Strategy, and only for projects that have 50% or more of units affordable. Also, allow the use of 20% funds to

deepen the levels of affordability for rental units from very low-income to extremely low-income levels.

- Require 55-year affordability restrictions on affordable rental housing and 45-year restrictions on affordable for-sale housing with "equity share" provisions.

Background

In 2003, the City Council approved Vision and Expected Outcome statements that included a requirement that 20% of all housing units developed in Coyote Valley must be affordable. Subsequently, in April 2005 the Co-Chairs of the Task Force issued a memorandum ("Draft Timing and Logistical Requirements"[1]) suggesting income-targeting goals for affordable housing in CVSP and recommending that affordable units not receive City or Redevelopment Agency subsidy, though (as later revised by the Task Force), the prohibition on use of such funds was not extended to affordable units that serve extremely low- and very low-income households. The Task Force also directed that staff meet with developers and the affordable housing development and advocacy community to fully explore the policy issues related to affordable housing in Coyote Valley. Housing and Planning staff convened an Affordable Housing Focus Group and worked with the CVSP Technical Advisory Committee and the City's Housing Advisory Committee on these issues. [2]

From discussions with the Focus Group and other stakeholders beginning in August 2005, a vision statement emerged for affordable housing in the CVSP. Generally, participants expressed the desire to:

1) Create a healthy and memorable community where residents of all incomes, races and ethnicities, education, and occupation have reasonable access to affordable housing that is phased over time and distributed throughout the community with good access to transit, schools, parks, trails, open spaces, and other community amenities; and

2) Facilitate the development of an affordable housing stock where differences in unit size, tenure, and income eligibility would contribute to community diversity, and provide a building block for a stronger, healthier, and more dynamic and interesting Coyote Valley community, so that each individual and the community at large can realize their full potential for maximum productivity and livability.

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[1] Refer to Attachment 1, April 28, 2005 Co-Chairs' Memo "Draft Timing and Logistical Requirements," Item #4 and Drafted Revision to item #4 by the Task Force.

[2] Refer to Attachment 2 for the Housing Advisory Commission's (HAC) December 2006 letter to the Mayor and City Council. A complete list of meetings convened with the Housing Focus Group, the HAC and the Technical Advisory Committee (TAC), as well as meeting Summaries, are available on Planning's website at: www.sanjoseca.gov/coyotevalley/.

Affordable Housing Policy Issues

Several major issues emerged in the discussion of affordable housing in CVSP among the stakeholder groups. These issues are outlined below with several key points:

Income Targeting of Affordable Units
The Timing and Logistical Requirements presented by the CVSP co-chairs recommended that a trigger be established that requires 20% of all residential units in Coyote Valley be affordable and include the City's current ratio of production goals for low- and very low-income housing. Specifically, the Income Allocation Policy adopted by the City Council in 1995 established the goal of targeting 85% of City funding for large development projects and rehabilitation assistance to lower income households. The City's current goals for levels of affordability are: 60% to very low-income (VLI) households, 25% to low-income (LI) households and no more than 15% to moderate-income (MOD) households.[3] As a matter of practice, funds for MOD housing are targeted to for-sale developments, rather than rental developments.

Rental Housing
There was a general consensus among the stakeholders that rental housing targeted to MOD households would exceed market rents and provides limited public benefit. There was agreement that there should be a goal for extremely low-income (ELI) housing, but no agreement on whether it should be a requirement or based on the availability of adequate funding.

For-Sale Housing
There was general consensus that affordable for-sale housing was most feasible when targeted to MOD households. There was also support for fostering development opportunities and partnerships for experienced nonprofit housing developers that specialize in building for-sale housing for LI and VLI households.

Use of 20% Redevelopment Funds in Coyote Valley
The potential use of the City's 20% Redevelopment funds to help fund affordable housing in the CVSP was discussed among the stakeholders. The Housing Advisory Commission (HAC) advocated the expenditure of these resources on infill production in the downtown and other City neighborhoods, rather than in the Coyote Valley. Other stakeholders, including the Housing Focus Group, felt that Coyote Valley projects should be eligible for these funds on a level basis with affordable projects throughout the City.

The Housing Department currently estimates that, based on tax increment growth projections, future City subsidy will be available to subsidize hundreds but not thousands of units citywide. Future availability of 20% Redevelopment funds is dependent on a number of factors, including the return of the Silicon Valley economy and the outcome of redevelopment reform now under discussion in Sacramento.

[3] Refer to Attachment 3 for current income categories for ELI, VLI, LI and MOD households.

Affordable Housing Financing Gap

Planning staff engaged Economic and Planning Systems (EPS) to conduct a study of the cost of developing affordable rental housing, which stemmed from a discussion among the Housing Focus Group stakeholders. The analysis assumed that land was contributed to an affordable housing development at "no cost"[4] and set out to determine if there was a "gap" in financing that would remain after the most readily available public subsidy (tax-exempt mortgage revenue bonds with "4%" Low Income Housing Tax Credits) was secured. The results of the EPS analysis concluded the "gap" ranged between $35,000 and $210,000, depending on the level of affordability required and the type of construction:

TABLE 1

Income Level	**Financial Gap per 2 BR Rental Unit with 4% Tax Credit Financing**	
	3-Story with Surface Parking	**4-story with Podium Parking**
ELI	$140,000 - $160,000	$190,000 - $210,000
VLI	$70,000 - $90,000	$125,000 - $145,000
LI	$35,000 - $55,000	$ 90,000 - $110,000

As a comparison, over the past twelve months, the City as a gap funder for affordable housing projects has provided gap financing in an amount between $65,000 and $110,000 per unit. City staff estimates that the average inclusionary in-lieu fee in the Citywide program will reach $96,000 by 2010. The actual gap that will exist for affordable housing projects in Coyote Valley will be determined by a number of factors, including changes in construction material costs, federal and State program rules related to housing subsidies, and income expense and rent trends in the region.

Among stakeholders, there was not universal agreement on how an affordable housing financing gap would be filled.

Implementation Options

The clear intent of the affordable housing requirement articulated in the City Council's Vision and Expected Outcomes is to require that at least 20% of the homes in Coyote Valley be affordable at restricted income levels. The Council did not specify the manner in which such units would be created and delivered. Following are several implementation options discussed with stakeholders to achieve the Council's 20% requirement:

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[4] EPS conducted its gap analysis with the assumption of no land cost in the context that an affordable housing "land bank" would be created, whereby land would be provided to fulfill the affordable housing obligation. In this study, the total cost of an affordable unit would include the hard and soft costs estimated by EPS and the units would be built on land made available through the "land bank." Although EPS authored the study, developers provided a large portion of the cost data. The EPS study, Affordable Apartment Financing Gap Analysis, is included as Attachment 4.

1) Strict Inclusionary Option - where all residential development projects would be required to provide 20% of residential units as affordable units: This option, which is similar to the City's current Inclusionary Policy[5], ensures that every large project includes affordable units.

   Pros: Results in the greatest predictability for residential developers and would require the least involvement of the public sector. Also maximizes the social goal of integrating lower income households with other households.
   Cons: The mix of affordable rental and affordable for-sale housing will depend on overall market demand for rental and for-sale housing and there would be no control over the mix of affordable rental and for-sale that is eventually built.

2) Land Dedication - where residential projects can satisfy their affordable housing requirements by dedicating land: Developers would provide the land that could feasibly subsidize the affordable units they are required to provide. The land could be donated to an affordable housing developer that secures the financing to build the required units, or dedicated to the City.

   Pros: Affordable housing developers with expertise in accessing low-interest financing and equity for 100% affordable projects could leverage other State and federal funding sources.
   Cons: In many cases the provision of land alone cannot feasibly produce affordable housing units. Financial contributions in addition to the land would likely be necessary to meet the obligation. Parameters for site location and minimum size would need to be established. Site planning, land disposition and other administration would require significant ongoing City involvement.

3) In-lieu Fee Option - where residential projects have an option to pay an in-lieu fee that must be used to subsidize the construction of affordable units in Coyote Valley:
   San Jose's Inclusionary Housing Policy allows the payment of a fee in lieu of constructing affordable units for projects with 20 units or fewer, in addition, for projects with more than 20 units when the developer is able to demonstrate that a financial hardship is created by adherence to the requirement. In practice, payment of in-lieu fees as a result of hardship is seldom allowed.

   Pros: The fees would be collected and used to subsidize the construction of affordable units. Affordable housing developers with expertise in accessing low-interest financing and equity could use in-lieu fees to leverage other funding sources.
   Cons: The fees must be established such that they are sufficient to actually construct the required affordable units and must be revised at least annually to reflect projected increases in development costs and subsidies required to build affordable units. This option requires significant public administration and shifts the risks associated with developing affordable housing away from the market rate developer, leaving the public entity responsible for addressing the provision of the units.

[5] Refer to the City's Inclusionary Housing Ordinance in Attachment 5.

4) Range of Options - where residential projects can satisfy their inclusionary requirements through a combination of constructed units, in-lieu fees, and/or land dedications:
Under this approach, certain parameters would be set regarding the methods that each project could choose from to meet its affordability requirements. For instance, all projects on land zoned for townhouse development could be required to provide constructed units, while projects on land zoned for high-rise multifamily or projects under a certain number of units could be allowed to construct units, pay the in-lieu fee, or dedicate land.

Pros: Developers would be provided with flexibility in meeting their affordable housing requirements.
Cons: The specific mix of affordable rental and affordable for-sale housing that will be built is partially dependent on the mix of market rate housing, though to a lesser degree than the Strict Inclusionary Option above. Requires a significant amount of administrative oversight and a coordinated and long-term effort to ensure that the provision of the units is being carried out and goals for implementation are being met.

Other Issues

There were two additional issues discussed by the stakeholder groups that merit addressing:

Contributions for affordable housing from non-residential development:
The HAC recommended a nexus assessment of housing demand induced by non-residential development and a study of the feasibility of generating additional funds for affordable housing through “fair-share” contributions from non-residential development. This recommendation is in contrast to the Council's Vision and Expected Outcomes for job creation in the CVSP and the Co-chairs’ April 2005 memo "Draft Timing and Logistical Requirements."

Deed Restrictions:
The stakeholders generally supported deed restrictions consistent with State Redevelopment Law (i.e., 55 years) for rental units. However, positions differed on restrictions for for-sale units. Some expressed the opinion that any unit priced at levels lower than the market should be considered affordable, even without deed restrictions. Some argued that affordable for-sale units should carry the City's typical “equity share” mechanism, which allows a homeowner to sell to any purchaser, regardless of income with the City recapturing some portion of the “windfall” from the sale of the unit for recycling to other eligible homebuyers. Others argued that affordable for-sale units should be permanently restricted for sale only to lower income qualified buyers, and that the City's equity share mechanisms should not be permitted.

Conclusion/Recommendations

In order to realize the City Council’s Vision and Expected Outcomes for affordable housing in the CVSP, criteria and parameters for an effective policy need to be in place to ensure the timely provision and implementation of affordable units over the long term development of the CVSP.

Staff recommendations for affordable housing in the CVSP are as follows:

Staff Recommendation 1: With the goal of providing mixed-income housing, require that each market rate development provide the equivalent of 20% of its units affordable. Rental developments should be required to make the equivalent of 8% of units affordable to VLI households and 12% affordable to LI households. MOD rental units should not be considered "affordable."[6] Consistent with the City's current Inclusionary Housing Policy, for-sale developments should be required to make 20% of their units affordable to MOD households. All affordable units should be indistinguishable from market rate units and have equivalent amenities.

S*taff Recommendation 2:* Allow for flexibility and a range of alternative methods of providing affordable units, including direct production, payment of in-lieu fees and land dedication with the following criteria:

- Allow all residential and mixed-use projects the option to construct units or pay the in-lieu fee, with the exception of for-sale townhouse development, which must provide units.
- Allow dedication of specific sites for developments that can adequately accommodate the estimated number of affordable rental units that will need to be constructed. Proposed one-hundred percent affordable housing developments should be located throughout the Coyote Valley community rather than being concentrated in a single area, but the specific locations should optimize access to transit, services, and amenities. In addition, over-concentration of affordable units on sites with "disamenities" such as un-buffered adjacency to railroad tracks should be avoided.[7]
- Staff also recommends several land use and administrative regulations that will promote high-quality, efficient affordable housing development in Coyote Valley. Those recommendations are included in Attachment 6.

Staff Recommendation 3: Consistent with the City's Inclusionary Housing Policy, require developers to fund the gap associated with the development of all units targeted to MOD, LI, and VLI households. Developers should be allowed to compete for and utilize funds that may be available from County, State and federal programs to fill the financing gap.

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[6] In July 2005, the City negotiated a Development Agreement with Hitachi Global Storage Technologies, Inc. for the 2,900-unit, mixed-use, Cottle Transit Village. In that agreement, the City revised its Inclusionary Housing Policy to require the developer to provide affordable rental units to LI and VLI households, or below, since MOD rents exceeded market rents.

[7] The Focus Group reviewed a variety of sites throughout the Coyote Valley Specific Plan. A map outlining potential affordable housing sites is available on Planning's website at www.sanjoseca.gov/coyotevalley/.

Staff Recommendation 4: Allow the use of 20% Low and Moderate Income Housing funds only for units that exceed the number to be required of developers under this Strategy and only for projects that have 50% or more of units affordable. Such projects must compete for funding against, and under the same criteria as, other affordable projects citywide. Require that any project that receives City housing funds provide a minimum of 25% of all units for ELI households, consistent with the City's current competitive funding criteria. In addition, developers providing fewer than 50% affordable units should be permitted to compete for any City funding that may be available to deepen the affordability on VLI rental units to ELI rent levels. Facilitate partnerships between developers and nonprofits to provide homeownership opportunities for very low- and low-income households.

Staff Recommendation 5: Require 55-year affordability restrictions on affordable rental housing and 45-year restrictions on affordable for-sale housing with "equity share" provisions allowing the City to capture a portion of the profit upon resale and recycle it to other eligible lower income homebuyers.

Laurel Prevetti

LESLYE KRUTKO, DIRECTOR
Department of Housing

for JOSEPH HORWEDEL, ACTING DIRECTOR
Department of Planning, Building and Code Enforcement

Attachment 1

Excerpt from the Coyote Valley Specific Plan Task Force Co-Chair's Memo "Draft Timing and Logistical Requirements", dated April 28, 2005, (Item No. 4) and Task Force's comments and suggested revisions to Item No 4:

Original language of Item No. 4:

4. Residential development of market-rate and deed-restricted affordable units must be built concurrently at a ratio of four to one. Affordable units, which are counted against this ratio, may not receive City or Redevelopment Agency subsidy.

Task Force comments and suggested revisions to Item No. 4:

4. Residential development of market-rate and deed-restricted affordable units must be built concurrently within each "phase" at a ratio of four to one. Affordable units, which are counted against this ratio, ~~may~~should not receive City or Redevelopment Agency subsidy~~.~~ except for ELI and VLI units. State and Federal funding would be acceptable for all units. Need target goals for ELI and VLI in the plan.

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Department of Housing
HOUSING ADVISORY COMMISSION

December 6, 2005

The Honorable Mayor and City Council
200 E. Santa Clara Street
San Jose, CA 95113

RE: COYOTE VALLEY SPECIFIC PLAN – AFFORDABLE HOUSING STRATEGY

Dear Mayor and City Council:

On October 25, 2005 the Housing Advisory Commission (HAC) held a Special Meeting to discuss and recommend key elements for an Affordable Housing Strategy in Coyote Valley. The Departments of Housing and Planning, Building and Code Enforcement provided the Commission with an overview of the Housing Focus Group's discussion and work, along with an explanation of the objectives set by the Mayor and City Council.

Based on this meeting, the Commission developed parameters for an Affordable Housing Strategy and at its November 10, 2005 regular meeting, approved a list of six objectives for consideration by the City Council and Coyote Valley Specific Plan Task Force.

The objectives unanimously adopted by the Housing Advisory Commission are attached. The Commission feels strongly that there should be an appropriate balance of truly affordable housing and, secondly, that these units should be distributed throughout the Coyote Valley and built alongside market rate units.

The Commission urges the City Council to ensure that these objectives are incorporated into the final development of a Specific Plan. The hallmark of the Coyote Valley vision has been sustainability, environmental sensitivity and design that integrates development with the natural landscape. An equitable social vision will also be critical to the success of the new community. We think these objectives help to further those goals.

Please don't hesitate to contact me at (408) 386-8907 if you have any further questions. Thank you for your consideration.

Sincerely,

TOM FINK
Housing Advisory Commission, Chair

Attachment (1)

COYOTE VALLEY SPECIFIC PLAN
Affordable Housing Strategy
Approved by the HAC November 10, 2005

<u>Housing Advisory Commission</u>

Policy Objectives and Issues:

1. The Commission stresses the importance of providing housing to workers at all income levels, in order to enhance the community's economic diversity and prospects for sustainability. By creating opportunities for residents of all incomes, Coyote Valley will be a stronger, healthier and more dynamic area in which to live. To achieve this goal, the Commission supports the following targets for low-income, very-low income, and extremely-low income households:

Affordability Level	**Rental**	**Ownership**
	80%	**20%**
ELI	1,500	0
VLI	1,400	100
LI	1,100	250
MOD		650
Totals	4,000	1,000

2. In order to ensure that this vibrant community is sustained for future generations, the Commission supports the use of long-term affordability restrictions in Coyote Valley and encourages the City Council to seek ways to ensure that there is no net loss of affordable rental housing over time and that the geographic distribution and affordability levels are kept intact.

3. The Housing Advisory Commission strongly advises the City Council to require that the affordable units built within Coyote Valley are integrated geographically throughout neighborhoods and housing types in Coyote Valley to assure that lower income households have equality of location within its community.

4. Consistent with the Plan's goal of achieving fiscal self-sufficiency, the Commission recommends that all the funding needed to provide for the affordable housing goals, including ELI and VLI, be generated from within the Coyote Valley. Furthermore, the Commission recommends that the City Council request a study to determine the feasibility of generating funds for affordable housing in Coyote Valley through a fair-share contribution from nonresidential development. The Commission opposes the use of Redevelopment Agency affordable housing funds (20% Housing Funds) for the purpose of financing these units. It is important that San Jose continue to concentrate its 20% Housing Funds on infill production in the downtown and other City neighborhoods.

5. In order to ensure that the ELI and VLI affordable units are built, it is important that the development of affordable units should be built concurrently with the market rate units. This will ensure that the goals of building an integrated community are achieved.

6. The Commission supports flexibility in meeting the affordable housing goals in Coyote Valley and integrating moderate and low-income rental and for-sale units throughout market rate developments (i.e. Standard Inclusionary Policy). For more deeply affordable units, VLI and ELI, the Commission recommends allowing a range of options through an Inclusionary policy, payment of in-lieu fees, with the preferred option of land dedication, which provides greater opportunity for accessing affordable housing financing sources.

Attachment 3

Maximum Income Levels for Santa Clara County

Income Level	% AMI	One Person	Two Person	Three Person	Four Person	Five Person	Six Person
Moderate	120%	$ 89,160	$ 101,880	$ 114,600	$ 127,320	$ 137,520	$ 147,720
Median	100%	$ 74,300	$ 84,900	$ 95,500	$ 106,100	$ 114,600	$ 123,100
Low-Income*	80%	$ 59,440	$ 67,920	$ 76,400	$ 84,880	$ 91,680	$ 98,480
Low-Income*	60%	$ 44,580	$ 50,940	$ 57,300	$ 63,660	$ 68,760	$ 73,860
Very Low-Income	50%	$ 37,150	$ 42,450	$ 47,750	$ 53,050	$ 57,300	$ 61,550
Very Low-Income	40%	$ 29,720	$ 33,960	$ 38,200	$ 42,440	$ 45,840	$ 49,240
Extremely Low-Income	30%	$ 22,290	$ 25,470	$ 28,650	$ 31,830	$ 34,380	$ 36,930

AMI = Area Median Income

* For typical 100% affordable rental developments financed with Tax Credits, 60% AMI is the maximum affordability level for Low-Income. Under the County's current HUD income levels, incomes at or below 80% AMI are Low-Income.

Attachment 4

EPS

Economic &
Planning Systems

Real Estate Economics
Regional Economics
Public Finance
Land Use Policy

DRAFT MEMORANDUM

To: Salifu Yakubu and Susan Walsh, City of San Jose

From: Darin Smith and Neil Saxby

Subject: CVSP Affordable Apartment Financial Gap Analysis; EPS #13159

Date: January 23, 2006

Economic & Planning Systems, Inc. (EPS) was asked by the City of San Jose to compare the expected development costs for affordable housing units in Coyote Valley to the values that can be achieved for those units to determine the financing gap(s) that can be expected to result. This analysis may be used to inform policy discussions regarding the mix of incomes in Coyote Valley's affordable housing and the appropriate financial burden or responsibility of developers or other entities.

BASIC ASSUMPTIONS

To estimate the development costs for affordable rental units, EPS began by making the following broad assumptions:

1. The affordable rental units would be built by nonprofit developers whose cost structure may not be the same as a for-profit developer.

2. The affordable rental units would be provided in three-story buildings with surface parking or four-story buildings with podium parking.

3. The average rental unit would be two bedrooms and 911 square feet, and the cost and value calculations for this type of unit would be adequately representative of the average financial gap for all affordable rental units.

4. Between the three-story and four-story options, the direct costs of construction would vary only according to the type of parking provided (surface vs. podium) and the efficiency of the building (net leasable area to gross building size), as both building heights would be expected to be woodframe construction.

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Phone: 916-649-8010
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5. The indirect costs of development for both three- and four-story buildings would be the same percentage of direct costs, but would vary on a per-unit basis as a result of the different parking costs and efficiency ratios.

6. Land for affordable housing is assumed to be dedicated at no cost to nonprofit housing developers.

METHODOLOGY

DEVELOPMENT FUNDING

The development funding of affordable rental units are based on the total mortgage loan proceeds that can be supported by the annual net operating income stream. EPS has estimated the supportable mortgages of two-bedroom rental units at 60, 50, and 30 percent of Median Family Income (MFI) for a three-person household. Consistent with City policy and competitive requirements for affordable housing subsidies, EPS assumed that 30 percent of total income could be used for housing costs, including an allowance for utilities estimated at $66 per month according to the Santa Clara County's "Schedule of Allowances for Tenant-Purchased Utilities and Other Services." To calculate the Net Operating Income for each unit, EPS then estimated the vacancy rate, the costs of operating expenses for the property managers/owners, and an appropriate capital reserve amount. For these assumptions, EPS received input from nonprofit housing providers represented on the Coyote Valley Affordable Housing Focus Group. To convert the Net Operating Income to a supportable mortgage loan, key variables included a 1.15 debt coverage ratio, 30-year repayment period and 5.45 percent interest rate, as prescribed by the California Housing Finance Agency for tax-exempt financing. Neither rents nor operating expenses are assumed to escalate in this calculation. These cost and revenue estimates and analyses are shown in **Table 1**.

DEVELOPMENT COSTS

EPS and a construction cost estimator (Lee Saylor Associates) had estimated the development costs for three- and four-story multifamily units in summer 2004, and EPS had updated those cost estimates to reflect documented cost increases through 2005. Rather than simply using those cost estimates, however, EPS sought additional input from a variety of knowledgeable entities represented on the CVSP Affordable Housing Focus Group. Several nonprofit housing developers reviewed EPS's assumptions and provided pro formas from their own most recent comparable development projects, as well as input from their own construction contractors.[1] In addition, the City of San Jose provided detailed cost information from nine affordable housing projects in which the City is currently participating financially. From these inputs, EPS was able to identify the range and average of various cost inputs and unit sizes and, with input from Focus

[1] Since confidentiality of information has been guaranteed, none of the sources can be disclosed.

Group members, select cost estimates believed to be representative for Coyote Valley. These cost estimates and analyses are incorporated into the financial gap analyses shown on **Tables 2 and 3**.

FINANCIAL GAP FINDINGS

FINANCING GAPS WITHOUT OUTSIDE FUNDING

Comparing the development costs per unit (excluding land) to the achievable mortgage loan for these units, EPS has estimated the financial gap that must be filled to enable development of rental housing affordable at various income levels. **Table 2** shows the financial gap calculations for the three-story buildings with surface parking. **Table 3** shows the same information for the four-story buildings with podium parking. The results are summarized as follows:

Income Level	**Financial Gap per 2-BR Unit without Outside Subsidy**	
	3-Story with Surface Parking	***4-Story with Podium Parking***
30% of MFI	$236,120	$298,082
50% of MFI	$167,808	$229,770
60% of MFI	$133,652	$195,614

Greater subsidies are required for four-story apartments with podium parking because of the much higher cost of podium parking compared to surface parking, and the lower building efficiency ratio.

FINANCING GAPS WITH OUTSIDE FUNDING SOURCES

The financial gap calculations above were determined without inclusion of potential revenues from different funding sources such as tax exempt bonds, Low Income Housing Tax Credits, redevelopment set-asides, etc. While such sources could substantially reduce the financing gaps, there has not yet been a policy position stated about the use or availability of such funding sources to support affordable housing in Coyote Valley.

BRIDGE Housing, a nonprofit affordable housing builder represented on the Focus Group, prepared an analysis of the value of affordable housing tax credits as applied to prototypical development in Coyote Valley (see **Table 4**). **Table 5** recalculates the financial gaps for affordable units assuming that the construction costs of each unit are reduced by the values of the four-percent and nine-percent tax credits. Comparing these financial gap figures to those with no outside funding sources, it is clear that tax credits or other funding sources can have a highly positive effect on the feasibility of affordable housing development, and are particularly critical to subsidize units for the lowest income households. It is also clear that, even with tax credits, land dedication alone will not fully subsidize the construction of affordable rental units in Coyote Valley.

Table 1
Affordable Unit Mortgage Assumptions and Calculations
Coyote Valley Specific Plan, EPS#13159

Item	60% of MFI	50% of MFI	30% of MFI
MFI (2005 Est. by HUD for 3-person HH)	$95,500	$95,500	$95,500
MFI Category	60.0%	50.0%	30.0%
Income Limit	$57,300	$47,750	$28,650
Affordable Rent Limits/Year (30% of income limit)	$17,190	$14,325	$8,595
Less Utility Costs/Year (1)	$792	$792	$792
Less Vacancy Losses/Year	5%	5%	5%
Less Operating Expenses/Year	$4,500	$4,500	$4,500
Less Capital Reserves ($/Unit/Year)	$300	$300	$300
Annual Net Operating Income	$10,778	$8,056	$2,613
Debt Coverage Ratio Required (2)	1.15	1.15	1.15
Income Available for Annual Mortgage Repayment	$9,372	$7,006	$2,272
Mortgage Interest Rate (2)	5.45%	5.45%	5.45%
Mortgage Repayment Period (years) (2)	30	30	30
Loan Fee (2)	1.25%	1.25%	1.25%
Total Supportable Mortgage Proceeds	**$135,257**	**$101,101**	**$32,789**

(1) Based on $66 per month utility total for a two bedroom unit as derived from the *Schedule of Allowances for Tenant-Purchased Utilities and Other Services for Santa Clara County,* October 1 '05.

(2) Mortgage debt coverage ratio, interest rate, term, and loan fees based on California Housing Finance Agency requirements as of December, 2005.

Sources: Non-profit housing developers; BRIDGE Housing Corporation; CalHFA; Economic & Planning Systems, Inc.

Table 2
Financing Gap Analysis for 3-Story Apartments with Surface Parking
Coyote Valley Specific Plan, EPS#13159

Item	60% of MFI	50% of MFI	30% of MFI
Development Program			
Avg. Unit Size (Net Square Feet)	911	911	911
Efficiency Ratio	89.0%	89.0%	89.0%
Gross Unit Size	1,024	1,024	1,024
Parking Ratio	1.5	1.5	1.5
Unit Values			
MFI (2005 Est. by HUD for 3-person HH)	$95,500	$95,500	$95,500
MFI Category	60.0%	50.0%	30.0%
Income Limit	$57,300	$47,750	$28,650
Affordable Rent Limits/Year (30% of income limit)	$17,190	$14,325	$8,595
Less Utility Costs/Year	$792	$792	$792
Less Vacancy Losses/Year	5%	5%	5%
Less Operating Expenses/Year	$4,500	$4,500	$4,500
Less Capital Reserves ($/Unit/Year)	$300	$300	$300
Annual Net Operating Income	$10,778	$8,056	$2,613
Debt Coverage Ratio	1.15	1.15	1.15
Annual Mortgage Repayment	$9,372	$7,006	$2,272
Mortgage Interest Rate	5.45%	5.45%	5.45%
Mortgage Repayment Period (years)	30	30	30
Loan Fee	1.25%	1.25%	1.25%
Total Supportable Mortgage Proceeds	**$135,257**	**$101,101**	**$32,789**
Development Costs			
Direct Construction Costs/Gross Bldg SF	$148	$148	$148
Direct Construction Costs/Unit	$151,648	$151,648	$151,648
Direct Surface Parking Construction Costs/Space	$2,706	$2,706	$2,706
Direct Surface Parking Construction Costs/Unit	$4,059	$4,059	$4,059
Site Improvement Cost/Gross Bldg SF	$23	$23	$23
Direct Site Improvement Costs/Unit	$23,606	$23,606	$23,606
In-tract Cost/Gross Bldg SF	$6	$6	$6
In-tract Cost/Unit	$6,142	$6,142	$6,142
Indirect Costs as % of Direct Costs	45.0%	45.0%	45.0%
Indirect Costs per Unit with Surface Parking	$83,455	$83,455	$83,455
Total Costs per Unit with Surface Parking	**$268,909**	**$268,909**	**$268,909**
Financing Gap (Development Costs - Unit Value)	**$133,652**	**$167,808**	**$236,120**

Source: BRIDGE Housing Corporation; Affordable housing developers; Economic & Planning Systems, Inc.

Table 3
Financing Gap Analysis for 4-Story Apartments with Podium Parking
Coyote Valley Specific Plan, EPS#13159

Item	60% of MFI	50% of MFI	30% of MFI
Development Program			
Avg. Unit Size (Net Square Feet)	911	911	911
Efficiency Ratio	80.0%	80.0%	80.0%
Gross Unit Size	1,139	1,139	1,139
Parking Ratio	1.5	1.5	1.5
Unit Values			
MFI (2005 Est. by HUD for 3-person HH)	$95,500	$95,500	$95,500
MFI Category	60.0%	50.0%	30.0%
Income Limit	$57,300	$47,750	$28,650
Affordable Rent Limits/Year (30% of income limit)	$17,190	$14,325	$8,595
Less Utility Costs/Year	$792	$792	$792
Less Vacancy Losses/Year	5%	5%	5%
Less Operating Expenses/Year	$4,500	$4,500	$4,500
Less Capital Reserves ($/Unit/Year)	$300	$300	$300
Annual Net Operating Income	$10,778	$8,056	$2,613
Debt Coverage Ratio	1.15	1.15	1.15
Annual Mortgage Repayment	$9,372	$7,006	$2,272
Mortgage Interest Rate	5.45%	5.45%	5.45%
Mortgage Repayment Period (years)	30	30	30
Loan Fee	1.25%	1.25%	1.25%
Total Supportable Mortgage Proceeds	**$135,257**	**$101,101**	**$32,789**
Development Costs			
Direct Construction Costs/Gross Bldg SF	$148	$148	$148
Direct Construction Costs/Unit	$168,708	$168,708	$168,708
Direct Podium Parking Construction Costs/Space	$17,590	$17,590	$17,590
Direct Podium Parking Construction Costs/Unit	$26,385	$26,385	$26,385
Site Improvement Cost/Gross Bldg SF	$23	$23	$23
Direct Site Improvement Costs/Unit	$26,261	$26,261	$26,261
In-tract Cost/Gross Bldg SF	$6	$6	$6
In-tract Cost/Unit	$6,833	$6,833	$6,833
Indirect Costs as % of Direct Costs	45.0%	45.0%	45.0%
Indirect Costs per Unit with Surface Parking	$102,684	$102,684	$102,684
Total Costs per Unit with Podium Parking	**$330,871**	**$330,871**	**$330,871**
Financing Gap (Development Costs - Unit Value)	**$195,614**	**$229,770**	**$298,082**

Source: BRIDGE Housing Corporation; Affordable housing developers; Economic & Planning Systems, Inc.

Table 4
Value of Low Income Housing Tax Credits
Coyote Valley Specific Plan, EPS#13159

Tax Credit Calculation	9% Tax Credit Non Elevator	9% Tax Credit Elevator	4% Tax Credit Non Elevator	4% Tax Credit Elevator
Federal Tax Credit				
Eligible Basis Limit per Unit	$127,158	$134,143	$127,158	$134,143
Allowed Boosts to Basis:				
Structured Parking	0%	7%	0%	7%
Payment of Prevailing Wage	20%	20%	20%	20%
Day Care Center Included	0%	0%	0%	0%
Special Needs Population Served	0%	0%	0%	0%
Energy Efficient Technologies Used	0%	0%	0%	0%
Tax Exempt Bond Financing	0%	0%	80%	80%
Adjusted Eligible Basis	$152,590	$170,362	$254,316	$277,676
Tax Credit Rate	8.40%	8.40%	3.40%	3.40%
Annual Credit	$12,818	$14,310	$8,647	$9,441
10-year Value	$128,175	$143,104	$86,467	$94,410
Sale of 99.99% Interest	$128,162	$143,089	$86,459	$94,400
Sale Price	90%	90%	100%	100%
Value of Federal Tax Credit per Unit	***$115,346***	***$128,780***	***$86,459***	***$94,400***
State Tax Credit				
Adjusted Eligible Basis	$152,590	$170,362	n/a	n/a
Tax Credit %	30%	30%		
Total State Tax Credit	$45,777	$51,108		
Sale of 99.99% Interest	$45,772	$51,103		
Sale Price:	70%	70%		
Value of State Tax Credit Per Unit	***$32,041***	***$35,772***		
Combined Value of Federal and State Credit/Unit	**$147,387**	**$164,553**	**$86,459**	**$94,400**

1. Assumes 2-bedroom Unit.
2. Assumes basis boosts that are most likely.
3. Assumes 9% application competitive enough to win state credits as well.
4. Assumes San Jose continues to be in non-high cost areas as designated by HUD.

Sources: BRIDGE Housing Corporation, January 9, 2006; Economic & Planning Systems, Inc.

Table 5
Financing Gap Analysis Including Estimated Tax Credit Proceeds
Coyote Valley Specific Plan, EPS#13159

Item	60% of MFI	50% of MFI	30% of MFI
With 4% Tax Credit			
Three-Story Buildings with Surface Parking			
Total Development Costs per Unit with Surface Parking	$268,909	$268,909	$268,909
Less "4% Tax Credit" Value (1)	$86,459	$86,459	$86,459
Less Total Supportable Mortgage Proceeds	$135,257	$101,101	$32,789
Financing Gap (Unit Value - Development Costs)	***($47,193)***	***($81,349)***	***($149,661)***
Four-Story Buildings with Podium Parking			
Total Development Costs per Unit with Podium Parking	$330,871	$330,871	$330,871
Less "4% Tax Credit" Value (1)	$94,400	$94,400	$94,400
Less Total Supportable Mortgage Proceeds	$135,257	$101,101	$32,789
Financing Gap (Unit Value - Development Costs)	***($101,213)***	***($135,369)***	***($203,681)***
With 9% Tax Credit			
Three-Story Buildings with Surface Parking			
Total Development Costs per Unit with Surface Parking	$268,909	$268,909	$268,909
Less "9% Tax Credit" Value (1)	$147,387	$147,387	$147,387
Less Total Supportable Mortgage Proceeds	$135,257	$101,101	$32,789
Financing Gap (Unit Value - Development Costs)	***$0***	***($20,421)***	***($88,733)***
Four-Story Buildings with Podium Parking			
Total Development Costs per Unit with Podium Parking	$330,871	$330,871	$330,871
Less "9% Tax Credit" Value (1)	$164,553	$164,553	$164,553
Less Total Supportable Mortgage Proceeds	$135,257	$101,101	$32,789
Financing Gap (Unit Value - Development Costs)	***($31,061)***	***($65,217)***	***($133,529)***

(1) Tax Credit values have been estimated by BRIDGE Housing Corporation, as shown on Table 4.

Source: "Affordable Housing Finance" magazine's "Affordable Housing Handbook"; BRIDGE Housing Corporation; Economic & Planning Systems, Inc.

Attachment 5

City of San Jose's Inclusionary Housing Ordinance

CAUTION: THIS POLICY IS REVISED FROM TIME TO TIME. TO BE SURE YOU ARE REVIEWING THE POLICY THAT IS CURRENTLY IN EFFECT YOU MUST CONTACT THE REDEVELOPMENT AGENCY AT 408.535.8500

CITY OF SAN JOSE POLICY ON IMPLEMENTATION OF THE INCLUSIONARY HOUSING REQUIREMENT OF HEALTH & SAFETY CODE SECTION 33413(b)(2)
As Amended June 21, 2005

I. General.

The Redevelopment Area Inclusionary Housing Requirement set forth in Health and Safety Code Section 33413(b)(2) shall be imposed upon all private housing developments, whether for-sale or rental, in the redevelopment project areas to which it applies (*i.e.*, all project areas and expansions except Park Center Plaza, San Antonio Plaza, Pueblo Uno, Mayfair One and original Rincon de los Esteros area) through the zoning process in accordance with this Policy.

A. Residential units subject to the Redevelopment Area Inclusionary Housing Requirement must remain affordable to the targeted income group for the longest feasible time, but in no event less than the life of the redevelopment plan for the project area in which the units are located.

B. Those restricted units must be made available for the term of the restriction at "affordable housing cost" or "affordable rent" to "very low income households" and "persons and families of low or moderate income". These terms shall be as defined in the California Health and Safety Code.

C. Except under extraordinary circumstance, the Redevelopment Area Inclusionary Housing Requirement shall be met through the development of units situate within the development as follows:

1) Rental Projects: At least twenty-percent (20%) of the rental units developed within a residential project subject to this policy must be made available for the term of the restriction at "affordable housing cost", with at least 8% of the units restricted to "very-low income" households.

2) For-Sale Projects: At the option of the Developer:

a) At least twenty percent (20%) of the "for sale" units developed within a residential project subject to this policy must be made available for the term of the restriction at "affordable housing cost" to "low or moderate income" households; or

b) At least six percent (6%) of the "for sale" units developed within a residential project subject to this policy must be made available for the term of the restriction at "affordable housing cost" to "very low income" households and nine percent (9%) must be made available to "low or moderate income" households, for a total of 15% of the units restricted pursuant to the requirements of Health and Safety Code Section 33413(b)(2).

D. Affordability controls on rental units must be evidenced by recorded deed restrictions that are binding on subsequent owners of the property. Affordability controls on "for sale" units must be evidenced by recorded deed restrictions that are binding on subsequent owners of the property, unless the owners agree to comply with a program designed to preserve the City's supply of affordable units required by Health and Safety Code Section 33413 (b)(2), including, but not limited to, an equity share program.

E. The deed restriction for a rental project subject to the Redevelopment Area Inclusionary Housing Requirement shall provide that for the life of the restriction, monthly rents must remain at or below the amounts determined to be affordable cost.

F. Developers subject to the Redevelopment Area Inclusionary Housing Requirement shall submit a compliance plan detailing the manner in which the Redevelopment Area Housing Requirement will be met, for the approval of the Agency's Executive Director, prior to the issuance of a discretionary land use permit for the proposed development. The compliance plan and any restrictions recorded pursuant thereto may be subsequently modified with the approval of the Agency's Executive Director, so long as any modification is consistent with this Policy.

G. The Agency has delegated to the City all other authority to implement and enforce compliance with the Redevelopment Area Housing Requirement. The City Housing Department shall monitor and report to the Agency and State Department of Housing and Community Development such information as is required by law on income and affordability of restricted units. The City's Housing Department shall report to the Executive Director periodically on the status of all implementation and enforcement activities. The City's Director of Planning shall include the Redevelopment Area Inclusionary Housing Requirement as a condition to development.

H. It shall not be inconsistent with the inclusionary policy for the City or Agency to provide financial assistance towards the development of the required inclusionary units provided that:

1. At least 50% of the total units in the project will be Restricted Affordable Units;

2. Such assistance is provided pursuant to a Second Mortgage Program established by the City or Agency to expand the income levels of potential homebuyers of Restricted Affordable Units; or

3. Such assistance is provided by the Redevelopment Agency from 80% funds to a project that is approved by the Agency Board.

II. <u>In Lieu Fee /Alternative Designated Units</u>.

Notwithstanding the general requirements set forth above, the City Council may relieve a private developer of its obligation to construct restricted affordable units within the private housing development if: (i) the developer pays an *in lieu* fee to the City; and (ii) a sufficient number of other residential units have been identified that will be available in the City on a similar time schedule and with the same or greater affordability restrictions as would be required of the private housing development (Alternative Designated Units). This exception applies only when all of the following criteria are met:

A. The City Council may approve the use of this Alternative Designated Units Option pursuant to this provision, only upon making all of the following determinations:

1. The private developer would incur an unreasonable economic hardship in meeting the Inclusionary Housing Requirement as part of the development. There are no feasible financial, design and developmental methodologies for providing the affordable units within the private housing development. The developer has explored and exhausted the alternative possibilities, including but not limited to: i) low income housing tax credits, ii) below market rate financing from governmental affordable housing programs; iii) tax exempt bond financing; and iv) reducing development costs.

2. The City Council approves the designation of the specific Alternative Designated Units.

3. The Alternative Designated Units meet all of the conditions of the private developer's Redevelopment Area Inclusionary Housing Requirement.

4. The City Council has ascertained that the Alternative Designated Units will actually be constructed and/or acquired within the Project Area or outside of a project area within a reasonable period of time after approval of the project which created the Inclusionary Housing requirement. The City Council will make this determination based on all of the facts and circumstances available to it at the time of approval of the Alternative Designated Units.

B. To the extent that state law permits, Alternative Designated Units may be located outside of a redevelopment project area, so long as the required number of restricted units is doubled, and all of the units will be under construction before January 1, 2002 or any legislative extensions of Health and Safety Code Section 33413(h).

C. The developer of the private housing development pays a fee to the City *in-lieu* of constructing required affordable units within that private housing development prior to the issuance of the development permit for the project. The amount of in-lieu fees will be established in the City Council's annual resolution establishing the Schedule of Fees and Charges

D. At the discretion of the City Council, the Redevelopment Area Inclusionary Housing Requirement may be satisfied with a combination of restricted units constructed within the project and Alternative Designated Units allowed pursuant to this Part II.

E. In the event the calculation for the number of restricted affordable units that the developer must provide results in a fraction of a unit, then the developer shall have the option of either (i) providing a full unit within the project at the affordable price, or (ii) making an in-lieu payment to the Housing Department in an amount equal to the percentage represented by the fractional unit multiplied by the then current in-lieu fee.

III. <u>Subordination of Redevelopment Inclusionary Housing Restriction in Rental Projects</u>.

The restriction for the Redevelopment Inclusionary Housing Requirement for a rental project may be subordinated to a lien, encumbrance or regulatory agreement of a federal or state government agency when all of the following conditions are met:

A. The agency is providing financing or other assistance for the housing development;

B. The statute or regulation governing the financing or assistance from that agency does not permit the restriction for the Redevelopment Area Inclusionary Housing Requirement to be senior to the agency's lien, encumbrance or regulatory agreement.

C. The agency will record a regulatory agreement that will require the housing development to provide affordable units in an amount not less than the amount required for the Redevelopment Area Inclusionary Housing Requirements for the particular housing development.

D. The City and Agency have determined that there is no economically feasible alternative method of financing or assisting the housing development on substantially comparable terms and conditions without subordination.

E. The City and Agency obtain written commitments reasonably designed to assure that the restricted affordable units in the housing development will not be removed in the event of default of the agency's lien, encumbrance or regulatory agreement, such as the following:

1. A right of the City or Agency to cure a default on the agency lien, encumbrance or regulatory agreement

2. A right of the City or Agency to negotiate with the agency after notice of default from the agency.

3. An agreement that if prior to foreclosure by the agency, the City or Agency takes title to the property and cures the default on the lien, encumbrance or regulatory agreement, the agency will not exercise any right it may have to accelerate a loan by reason of the transfer of title to the City or Agency.

4. A right of the City or Agency to purchase property from the owner at any time after a default on the lien, encumbrance or regulatory agreement.

IV. <u>Subordination of Redevelopment Area Inclusionary Housing Restriction in For Sale Projects</u>.

The restrictions for the Redevelopment Area Inclusionary Housing Requirement for a "for sale" unit may be subordinated to a lien, encumbrance, or regulatory agreement of a lender other than the City or from a bond issuance providing financing, refinancing, or other assistance of "for sale" units or parcels where the Director of Housing, or his/her designee, makes a finding that an economically feasible alternative method of financing, refinancing, or assisting the "for sale" units or parcels on substantially comparable terms and conditions, but without subordination, is not reasonably available, and where the City obtains written commitments reasonably designed to protect the City's affordable housing supply in the event of default, such as any of the following:

(A) A right of the City to cure a default on the loan.

(B) A right of the City to negotiate with the lender after notice of default from the lender.

(C) An agreement that if prior to foreclosure of the loan, the City takes title to the property and cures the default on the loan, the lender will not exercise any right it may have to accelerate the loan by reason of the transfer of title to the City.

(D) A right of the City to purchase property from the owner at any time after a default on the loan.

V. Exception for Small Housing Projects.

Notwithstanding the general requirements set forth above, a private developer of a private housing development of ten (10) housing units or less shall not be subject to the requirements of this Policy. For the development of eleven (11) to twenty (20) housing units, the private developer of a private housing development shall have the option to pay, by right, an in-lieu fee as described in Section II herein, provided that with respect to a "for sale" project, the developer shall be deemed to have selected option (a) as set forth in Section I C 2 above in determining the amount of the fee.

VI. Request for Adjustment.

Notwithstanding the general requirements set forth above, the City Council shall, upon request of a private residential developer, reduce, adjust or relieve the developer of its obligations under this Redevelopment Area Inclusionary Housing Policy, but only to the extent the Developer demonstrates that there is no nexus between the proposed development and the purposes of this Policy.

VII. Projects Constructed Pursuant to a Development Agreement.

Notwithstanding the general requirements set forth herein, if the City Council approves a development agreement, by ordinance pursuant to the authority and provisions of Government Code Section 65964 *et. seq*. and City Ordinance 24297, with a private developer of a private housing development and, pursuant to such development agreement, the private developer agrees to provide the number of affordable units required pursuant to this Redevelopment Area Inclusionary Housing Policy but at lower levels of affordability, then the location, construction and phasing of such inclusionary units within such project if approved by the Director of Housing and set forth in an Affordable Housing Plan attached as an exhibit to the development agreement shall be deemed to be consistent with the provisions of this Redevelopment Area Inclusionary Housing Policy so long as the developer remains in compliance with the terms and conditions of such development agreement. Any breach of such Affordable Housing Plan shall constitute a material breach of the development agreement.

"Procedures for Complying with the City of San Jose Inclusionary Housing Policy in Redevelopment Project Areas" is available at:

www.sjredevelopment.org/InclusionaryHousing/InclusionaryProcedures.pdf

Attachment 6

Other Recommendations

City staff recommends that the following land use and administrative regulations should apply to affordable housing development in Coyote Valley:

- Affordable housing should be allowed in all areas designated for residential and mixed use purposes, in keeping with the allowed development standards regarding density, setbacks, height and building form.

- Standards for parking, lot coverage, and building profile should promote the urban design ideal of compact, transit-friendly development envisioned by the CVSP.

- Performance standards should reflect the principles of good neighborliness, and minimize the potential for negative impacts on adjoining land uses.

- Measures should be pursued to continue or secure tax waivers for new housing that is affordable to low and very-low income households (e.g. revenues from capital projects such as the Building and Structure Construction Tax, PDO/PIO fees, and the construction portion of the Construction and Conveyance Tax).

- Expedited development review processes should continue to be available for projects that include 100% affordable housing.

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